

Senate Study Bill 1032

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the criminal offense of sexual exploitation of
2 a minor.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1057DP 80
5 jm/cf/24

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1 1 Section 1. Section 728.12, subsections 1 and 2, Code 2003,
1 2 are amended to read as follows:

1 3 1. It shall be unlawful to employ, use, persuade, induce,
1 4 entice, coerce, solicit, knowingly permit, or otherwise cause
1 5 or attempt to cause a minor to engage in a prohibited sexual
1 6 act or in the simulation of a prohibited sexual act. A person
1 7 must know, or have reason to know, or intend that the act or
1 8 simulated act may be photographed, filmed, or otherwise
1 9 preserved in a negative, slide, book, magazine, computer,
1 10 computer disk, or other print or visual medium, or be
1 11 preserved in an electronic, magnetic, or optical storage
1 12 system, or in any other type of storage system. A person who
1 13 commits a violation of this subsection commits a class "C"
1 14 felony. Notwithstanding section 902.9, the court may assess a
1 15 fine of not more than fifty thousand dollars for each offense
1 16 under this subsection in addition to imposing any other
1 17 authorized sentence.

1 18 2. It shall be unlawful to knowingly promote any material
1 19 visually depicting a live performance of a minor ~~or what~~
~~1 20 appears to be a minor~~ engaging in a prohibited sexual act or
1 21 in the simulation of a prohibited sexual act. A person who
1 22 commits a violation of this subsection commits a class "D"
1 23 felony. Notwithstanding section 902.9, the court may assess a
1 24 fine of not more than twenty-five thousand dollars for each
1 25 offense under this subsection in addition to imposing any
1 26 other authorized sentence.

1 27 Sec. 2. Section 728.12, subsection 3, unnumbered paragraph
1 28 1, Code 2003, is amended to read as follows:

1 29 It shall be unlawful to knowingly purchase or possess a
1 30 negative, slide, book, magazine, computer, computer disk, or
1 31 other print or visual medium, or an electronic, magnetic, or
1 32 optical storage system, or any other type of storage system
1 33 which depicts a minor ~~or what appears to be a minor~~ engaging
1 34 in a prohibited sexual act or the simulation of a prohibited
1 35 sexual act. A person who commits a violation of this
2 1 subsection commits an aggravated misdemeanor for a first
2 2 offense and a class "D" felony for a second or subsequent
2 3 offense. For purposes of this subsection, an offense is
2 4 considered a second or subsequent offense if, prior to the
2 5 person's having been convicted under this subsection, any of
2 6 the following apply:

EXPLANATION

2 7
2 8 This bill makes changes to the definition of the criminal
2 9 offense of sexual exploitation of a minor by making it
2 10 unlawful to solicit or attempt to cause a minor to engage in a
2 11 prohibited sexual act or simulated prohibited sexual act.

2 12 The bill also strikes language from the criminal elements
2 13 of the crime of sexual exploitation of a minor in response to
2 14 a recent United States Supreme Court Opinion, Ashcroft v. Free
2 15 Speech Coalition, 122 S.Ct. 1389 (2002). The bill strikes
2 16 language that prohibits the purchase, possession, or promotion
2 17 of material that portrays what appears to be a minor in a
2 18 prohibited sexual act. The Supreme Court found the provision
2 19 "what appears to be a minor" to be overbroad and in violation
2 20 of the First Amendment of the United States Constitution and
2 21 stated its own opinion that the First Amendment requires a
2 22 more precise restriction.
2 23 LSB 1057DP 80

